

Message Text

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ACTION ARA-10

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FM AMEMBASSY SANTIAGO

TO SECSTATE WASHDC 9549

C O N F I D E N T I A L SANTIAGO 4404

LIMDIS

E.O. 11652: GDS

TAGS: EMIN, EFIN, CI

SUBJECT: KENNECOTT NEGOTIATIONS

1. SUMMARY. ON JULY 25 KENNECOTT NEGOTIATING TEAM, WHICH EXPECTS LEAVE CHILE TODAY, BRIEFED AMBASSADOR ON RECENT CONVERSATIONS WITH GOC. THEY INDICATED TWO SIDES ARE STILL VERY FAR APART AND PROSPECTS ARE NOT BRIGHT FOR A PROMPT SETTLEMENT. END SUMMARY

2. MICHAELSON, CREMER, BAYLESS AND GORMAN CALLED ON AMBASSADOR JULY 25 TO INFORM HIM OF LATEST ROUND OF NEGOTIATIONS WITH JULIO PHILIPPI. IN THEIR OPINION, GOC AND KENNECOTT ARE STILL VERY FAR APART. PHILIPPI INSISTS THAT COMPENSATION FOR KENNECOTT'S 49 PERCENT INTEREST IN EL TENIENTE MUST USE BOOK VALUE AS BASE WHILE KENNECOTT IS INSISTING ON "FAIR MARKET VALUE." MICHAELSON MENTIONED FIGURE OF US\$600 MILLION AS KENNECOTT'S ASKING PRICE, WHICH WAS FAR ABOVE CHILEAN OFFER.

3. KENNECOTT NEGOTIATORS ARE LUNCHING TODAY WITH MINISTER ECONOMIC COORDINATION RAUL SAEZ AND EXPECT RETURN TO U.S. TONIGHT. THEY ARE UNCERTAIN WHEN OR WHERE NEXT ROUND OF NEGOTIATIONS WILL OCCUR AND HAVE NO LEGAL REPRESENTATIVE IN CHILE TO CONTINUE TALKS. IN THEIR OPINION, SETTLEMENT PROBABLY STILL FAR OFF. WHILE NEGOTIATIONS CONTINUE, KENNECOTT IS WILLING TO AGREE TO GOC REQUESTS FOR POSTPONE-
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MENT IN EUROPEAN LEGAL ACTIONS (FRANCE, GERMANY, ITALY AND

SWEDEN). NEVERTHELESS, KENNECOTT BELIEVES THAT FRENCH CASE, WHICH IS THEIR STRONGEST, IS LIKELY TO BE CONCLUDED AND RESULT IN A FAVORABLE JUDGMENT FOR KENNECOTT IN LATE 1974 OR EARLY 1975 IF NO SETTLEMENT WITH GOC REACHED BEFORE THEN.

4. COMMENT: SINCE ANACONDA RECEIVED ONLY US\$59 MILLION NET FOR 49 PERCENT OF ITS PROPERTIES (WHICH WORTH MORE THAN EL TENIENTE) AND GOC ALMOST CERTAINLY CONSIDERS THIS AS PRECEDENT FOR SETTLING WITH KENNECOTT, THERE IS HUGE GAP BETWEEN PRESENT BARGAINING POSITIONS OF BOTH SIDES. KENNECOTT IS PLEASED THAT PRINCIPLE OF EX POST FACTO EXCESS PROFITS WAS AVOIDED IN ANACONDA SETTLEMENT BUT IS TAKING FIRM POSITION THAT PRINCIPLE OF COMPENSATION OF "FAR MARKET VALUE" IS EQUALLY IMPORTANT. SINCE KENNECOTT CASE INVOLVES COMPENSATION FOR 49 PERCENT WHEREAS ANACONDA ALSO CONVERED NOTES FOR 51 PERCENT, KENNECOTT'S FINANCIAL STAKE IS LOWER AND THEIR WILLINGNESS TO STAND ON PRINCIPLE PERHAPS HIGHER. END COMMENT.

5. MICHAELSON SAID HE WOULD CALL ON APPROPRIATE USG OFFICIALS AND BRIEF THEM WHEN HE RETURNED TO U.S.
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